

Senate File 119 - Introduced

SENATE FILE 119

BY DAWSON

A BILL FOR

1 An Act relating to documentation of loans and gifts to museums
2 and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 305B.2, Code 2019, is amended to read as
2 follows:

3 **305B.2 Definitions.**

4 As used in [this chapter](#), unless the context requires
5 otherwise:

6 1. "*Claimant*" means a person who files a notice of intent
7 to preserve an interest in property on loan to a museum as
8 provided in [section 305B.8](#).

9 2. "*Claimant's address*" means the most recent address as
10 shown on a notice of intent to preserve an interest in property
11 on loan to a museum, or notice of change of address, which
12 notice is on file with the museum.

13 3. "*Donor*" means a person who gives a gift to a museum.

14 4. "*Gift*" means a voluntary, gratuitous conveyance of
15 property to a museum.

16 ~~3.~~ 5. "*Lender*" means a person who has temporarily
17 transferred custody of property to a museum and whose name
18 appears on the records of the museum or in the registry of
19 museum loans and gifts as the person legally entitled to
20 property held or owing by the museum.

21 ~~4.~~ 6. "*Lender's address*" means the most recent address as
22 shown on ~~the~~ a museum's records, or in the registry of museum
23 loans and gifts, pertaining to the property on loan from the
24 lender.

25 ~~5.~~ 7. "*Loan*" or "*loaned*" means a ~~deposit~~ temporary transfer
26 of custody of property that is not accompanied by a transfer of
27 title to the property.

28 ~~6.~~ 8. "*Museum*" means an institution located in Iowa
29 operated by a nonprofit corporation or a public agency,
30 primarily for educational, scientific, historic preservation,
31 or aesthetic purposes, which owns, borrows, cares for,
32 exhibits, studies, archives, or catalogs property. "*Museum*"
33 includes, but is not limited to, historical societies, historic
34 sites or landmarks, parks, monuments, and libraries.

35 ~~7.~~ 9. "*Property*" means a tangible object, animate or

1 inanimate, under a museum's care which has intrinsic historic,
2 artistic, scientific, or cultural value.

3 10. "Registry of museum loans and gifts" means a record of
4 loans and gifts made to museums that is maintained by the state
5 historical society pursuant to section 305B.2A, subsection 4.

6 ~~8.~~ 11. "Undocumented property" means property in the
7 possession of a museum for which the museum cannot determine
8 the property's owner by reference to the museum's records the
9 property's owner or to the registry of museum loans and gifts.

10 Sec. 2. NEW SECTION. **305B.2A Documentation of gifts and**
11 **loans.**

12 1. A museum shall complete a gift form or a loan form,
13 available from the state historical society, documenting each
14 gift and loan made to the museum.

15 2. Each gift or loan form shall include all of the
16 following:

17 a. The name of the donor or lender of the property.

18 b. The address, email address, and telephone number of the
19 donor or lender.

20 c. A detailed description of the property being gifted or
21 loaned.

22 d. The date of the gift or the loan.

23 e. If a loan, the duration of the loan.

24 f. Any terms or restrictions governing the gift or loan.

25 g. The name and work telephone number of the individual
26 responsible for receiving the gift or loan on behalf of the
27 museum.

28 h. The name, address, and main phone number of the museum
29 receiving the gift or loan.

30 i. The physical address where the gift or loan will be
31 housed if different than the address in paragraph "h".

32 3. A copy of the completed form shall be submitted by the
33 museum to the state historical society within thirty calendar
34 days of the date of the loan or the gift to the museum.

35 4. The state historical society shall maintain such forms

1 in a registry of museum loans and gifts. A gift form shall be
2 maintained for twenty-five years from the date of such gift. A
3 loan form shall be maintained for ten years after the date of
4 any of the following:

5 *a.* The property is returned to the lender or claimant.

6 *b.* The property is disposed of pursuant to section 305B.4.

7 *c.* The museum acquires title to the property pursuant to
8 section 305B.6 or 305B.7.

9 5. The director of the department of cultural affairs shall
10 adopt rules pursuant to chapter 17A as necessary to administer
11 this section.

12 Sec. 3. Section 305B.3, subsections 2 and 3, Code 2019, are
13 amended to read as follows:

14 2. *Mailed notice.* All notices given by a museum pursuant
15 to [this chapter](#) shall be mailed to the lender's, and any
16 claimant's, last known address by restricted certified mail,
17 as defined in [section 618.15](#). The last known address shall be
18 determined by a review of the museum's records and the registry
19 of museum loans and gifts. Notice is deemed given if the
20 United States post offices provides the museum ~~receives~~ proof
21 of receipt within thirty days of mailing the notice.

22 3. *Published notice.* If the museum does not know the
23 identity of the lender, or does not have an address for the
24 lender, or if proof of receipt is not received by the museum
25 from the United States post office within thirty days of
26 mailing a notice under [subsection 2](#), notice is deemed given
27 if the museum publishes notice at least once a week for three
28 consecutive weeks in a newspaper of general circulation in both
29 of the following:

30 *a.* The county in which the museum is located.

31 *b.* The county of the lender's or claimant's address, if any.

32 Sec. 4. Section 305B.4, subsection 1, unnumbered paragraph
33 1, Code 2019, is amended to read as follows:

34 Unless there is a written loan agreement to the contrary,
35 a museum may apply conservation measures to or dispose

1 of property on loan to the museum without the lender's or
2 claimant's permission, ~~or~~ and without formal notice to the
3 lender or claimant, if immediate action is required to protect
4 the property ~~on loan~~ or other property in the custody of the
5 museum, or if the property on loan is determined to be a hazard
6 to the health and safety of the public or the museum staff and
7 if any of the following apply:

8 Sec. 5. Section 305B.4, subsection 1, paragraphs a and b,
9 Code 2019, are amended to read as follows:

10 a. The museum is unable to reach the lender or claimant at
11 the lender's or claimant's last known address or phone number,
12 as determined by a review of the museum's records and the
13 registry of museum loans and gifts, if action is to be taken
14 ~~within more than three days but less than one week between~~
15 four and six calendar days from the time the museum ~~determined~~
16 determines action ~~was~~ is necessary.

17 b. The museum is unable to reach the lender or claimant
18 at the lender's or claimant's last known phone number, as
19 determined by a review of the museum's records and the registry
20 of museum loans and gifts, prior to taking action if the action
21 is to be taken within three days or less from the time the
22 museum ~~determined~~ determines action ~~was~~ is necessary.

23 Sec. 6. Section 305B.4, subsection 2, paragraph a, Code
24 2019, is amended to read as follows:

25 a. Has a lien on the property and on the proceeds of any
26 disposition of the property for the costs incurred by the
27 museum for the conservation measures or the disposal of the
28 property.

29 Sec. 7. Section 305B.4, subsection 2, paragraph b,
30 subparagraph (2), Code 2019, is amended to read as follows:

31 (2) Exercised reasonable care in the ~~choice~~ selection and
32 application of conservation measures.

33 Sec. 8. Section 305B.5, Code 2019, is amended to read as
34 follows:

35 **305B.5 Notice of injury damage or loss.**

1 A museum shall give a lender or claimant prompt notice of
 2 any known injury damage to or loss of property on loan.—The
 3 on a notice of damage or loss form adopted by the department
 4 of cultural affairs shall adopt by rule a form for notice
 5 of injury or loss, no later than January 1, 1989, and shall
 6 distribute the rule and form to all identified museums in Iowa
 7 within sixty days after adoption of the rule. The notice shall
 8 be mailed to the lender's or claimant's last known address in
 9 event of injury or loss of property on loan to the museum as
 10 determined by a review of the museum's records and the registry
 11 of museum loans and gifts. Published notice of injury damage
 12 or loss of undocumented property shall not be required.

13 Sec. 9. Section 305B.6, subsections 2 and 3, Code 2019, are
 14 amended to read as follows:

15 2. If the lender or claimant does not respond to the
 16 notice of termination provided under subsection 1 within one
 17 year by filing a notice of intent to preserve an interest in
 18 property on loan, the museum ~~acquires~~ shall acquire title to
 19 the property.

20 3. A notice of intent to terminate a loan must include a
 21 statement containing substantially the following information:

22 The records of (name of museum) indicate that you have
 23 property on loan to it. The institution wishes to terminate
 24 the loan. You must contact the institution, establish your
 25 ownership of the property pursuant to Code section 305B.8,
 26 and make arrangements to collect the property. If you fail
 27 to do so promptly, ~~you will be considered to have donated the~~
 28 property will be considered a gift to the institution.

29 Sec. 10. Section 305B.7, subsections 1 and 3, Code 2019, are
 30 amended to read as follows:

31 1. A museum may acquire title to undocumented property
 32 held by a museum for seven years or longer with no valid claim
 33 or written contact by any person, ~~all-verifiable~~ as verified
 34 through the museum's written records, by giving published
 35 notice pursuant to section 305B.3, subsection 3, of acquisition

1 ~~of intent to acquire~~ title to undocumented property.

2 3. A notice of ~~acquisition of~~ intent to acquire title to
3 undocumented property must include a statement containing
4 substantially the following information:

5 The records of (name of museum) fail to indicate the
6 owner of record of certain property in its possession. The
7 museum intends to acquire title to the below described
8 property: (~~general~~ description of the property detailed
9 enough to allow a party to identify the property). If you
10 claim ownership or other legal interest in this property you
11 must contact the institution, establish your ownership of the
12 property pursuant to Code section 305B.8, and make arrangements
13 to collect the property. If you fail to do so promptly, you
14 will be considered to have waived any claim you may have had to
15 the property.

16 Sec. 11. Section 305B.8, subsection 1, Code 2019, is amended
17 to read as follows:

18 1. A notice of intent to preserve an interest in property
19 on loan to a museum filed pursuant to this chapter shall be
20 in writing, or on a form available from the department of
21 cultural affairs pursuant to subsection 3, and contain all of
22 the following information:

23 a. A description of the property adequate to enable the
24 museum to identify the property.

25 b. Documentation sufficient to establish the claimant as
26 owner of the property.

27 c. The claimant's address and phone number.

28 ~~e.~~ d. A statement attesting to the truth, to the best of
29 the signer's knowledge, of all information included in or with
30 the notice.

31 ~~d.~~ e. The signature, under penalty of perjury, of the
32 claimant or a person authorized to act on behalf of the
33 claimant.

34 Sec. 12. Section 305B.9, subsections 1, 6, and 7, Code 2019,
35 are amended to read as follows:

1 1. An action shall not be brought against a museum for
2 damages because of injury damage to or loss of property loaned
3 to the museum more than three years from the date the museum
4 gives the lender or claimant notice of the injury damage or
5 loss, or ten years from the date of the injury damage or loss,
6 whichever occurs earlier.

7 6. Notwithstanding subsections 3 and 4, a lender or claimant
8 who ~~was~~ is not given notice as provided in this chapter that
9 ~~the~~ a museum ~~intended~~ intends to terminate a loan, ~~as provided~~
10 ~~in pursuant to~~ section 305B.6, and who proves that the museum
11 received an adequate notice of intent to preserve an interest
12 in loaned property, ~~which satisfies all of the requirements of~~
13 ~~pursuant to~~ section 305B.8, within the seven years immediately
14 preceding the filing of an action to recover the property, may
15 recover the property or, if the property has been disposed of,
16 recover the reasonable value of the property at the time it was
17 disposed of plus interest at the legal rate.

18 7. A museum is ~~not liable at any time~~ immune from civil
19 liability, in the absence of a court order, for returning
20 property to the original lender, even if a claimant other than
21 the lender has filed a notice of intent to preserve an interest
22 in property. If persons claim competing interests in property
23 in the possession of a museum, the burden is upon ~~the claimants~~
24 a claimant to prove ~~their~~ the claimant's interest in an action
25 in equity ~~initiated by a claimant~~. A museum is ~~not liable at~~
26 ~~any time~~ immune from civil liability for returning property
27 to an uncontested claimant who produced reasonable proof of
28 ownership pursuant to section 305B.8.

29 Sec. 13. Section 305B.10, unnumbered paragraph 1, Code
30 2019, is amended to read as follows:

31 In order to take title to property pursuant to this chapter a
32 museum has the following obligations to a lender or claimant:

33 Sec. 14. Section 305B.10, subsection 3, Code 2019, is
34 amended to read as follows:

35 3. A museum accepting a loan of property ~~on or after January~~

1 ~~1, 1989,~~ shall inform the lender in writing at the time of the
2 loan of the provisions of [this chapter](#). A copy of the form
3 for notice prescribed in of intent to preserve an interest in
4 property pursuant to [section 305B.8](#), or a citation to this
5 chapter, is adequate for this purpose.

6 Sec. 15. Section 305B.11, subsection 1, unnumbered
7 paragraph 1, Code 2019, is amended to read as follows:

8 ~~On or after January 1, 1989, a~~ A museum shall at minimum
9 maintain and retain the following records, either originals
10 or accurate copies, for a period of not less than twenty-five
11 years:

12 Sec. 16. Section 305B.11, subsection 1, paragraphs b and c,
13 Code 2019, are amended to read as follows:

14 b. The A loan agreement, if any, and a receipt or ledger for
15 property on loan.

16 c. A receipt or ledger for property ~~delivered~~ returned to an
17 owner or claimant.

18 Sec. 17. Section 305B.12, subsection 1, Code 2019, is
19 amended to read as follows:

20 1. The lender or claimant of property on loan to a museum
21 shall notify the museum of a change of address or change in
22 ownership of the property. Within thirty calendar days of
23 receipt, the museum shall submit a copy of such notice to the
24 state historical society. The state historical society shall
25 file the notice with the corresponding loan form on file in
26 the registry of museum loans and gifts. Failure to notify
27 the museum of these changes may result in the lender's or
28 claimant's loss of rights in the property.

29 Sec. 18. Section 305B.13, subsection 1, Code 2019, is
30 amended to read as follows:

31 1. [Sections 305B.1, 305B.2, and 305B.3 through 305B.8](#) are
32 retroactively applicable to all property in the possession of a
33 museum within the state on or after January 1, 1988.

34 Sec. 19. APPLICABILITY. The following applies to all gifts
35 and loans to a museum on or after July 1, 2019:

1 The section of this Act enacting section 305B.2A.

2	EXPLANATION
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3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill relates to documentation of loans and gifts to
6 museums.

7 The bill requires a museum to fill out a gift form or a loan
8 form, available from the state historical society, documenting
9 each gift and loan made to the museum. The form is required to
10 include the name, address, email address, and phone number of
11 the lender or donor, a detailed description of and the date of
12 the loan or gift, the duration of a loan, any terms governing
13 the gift or loan, the name and phone number of the individual
14 receiving the gift or loan on behalf of the museum, the name,
15 address, and phone number of the museum receiving the gift or
16 loan, and the physical address where the gift or loan will be
17 housed. "Donor" and "gift" are defined in the bill.

18 The bill requires the museum to submit a copy of the
19 completed form to the state historical society. The historical
20 society must maintain all of the forms in a registry of museum
21 loans and gifts. A gift form must be maintained for 25 years
22 from the date of the gift. A loan form must be maintained
23 for 10 years after the date the property is returned to the
24 lender or claimant, or the property is disposed of, or the
25 museum acquires title to the property due to termination of
26 a loan or certain circumstances where a legal owner of the
27 property cannot be identified. The director of the department
28 of cultural affairs shall adopt rules to administer the forms
29 and the registry of museum loans and gifts.

30 If a lender or claimant of property on loan to a museum
31 notifies the museum of a change of address, or a change in
32 ownership of the property, the bill requires the museum to
33 submit a copy of the notice to the historical society. The
34 historical society must file the notice with the corresponding
35 loan form on file in the registry of museum loans and gifts.

1 The bill provides that a museum must check its records,
2 as well as the registry of museum loans and gifts, prior to
3 declaring property undocumented, or providing any notice
4 required pursuant to Code chapter 305B. "Undocumented
5 property" is defined in the bill as property in the possession
6 of a museum for which the museum cannot determine the
7 property's owner.

8 The section of the bill enacting new Code section 305B.2A is
9 applicable to all gifts and loans to a museum on or after July
10 1, 2019.